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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,628	02/20/2004	Takashi Murai	Q79816	4140

23373 7590 03/09/2007  
SUGHRUE MION, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
SUITE 800  
WASHINGTON, DC 20037

EXAMINER
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DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/781,628

Applicant(s)

MURAI ET AL.

Examiner

Willie J. Daniel, Jr.

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4 and 7-11 is/are allowed.
- 6) ☒ Claim(s) 2,3,12 and 14 is/are rejected.
- 7) ☒ Claim(s) 5,6,13 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is in response to applicant's amendment filed on 05 December 2006. **Claims 1-15** are now pending in the present application. This office action is made **Final**.

#### *Claim Objections*

2. **Claims 13 and 15** objected to because of the following informalities:
  - a. Claims 13 and 15 include the limitation "...generate the saved save the distributed video information..." as recited in line(s) 4-5 of claim 13. The Examiner interprets as --generate the **saved video information**-- (see claim 12, line 1) and suggests replacing said limitation to have proper antecedent and help clarify the claim language.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2-3, 12, and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over

**Ayres et al.** (hereinafter Ayres) (**US 2003/0078986 A1**) in view of **Trossen et al.**

(hereinafter Trossen) (**US 2004/0111476 A1**).

Regarding **claims 2-3**, Ayres discloses a method for distributing video (e.g., multimedia MM) information to a mobile phone from a video contents server (e.g., multimedia distribution server - MDK 12, 14, 16), based on push technology, said video contents server configured to store therein the video information to be distributed, under control of a user management server (MDK server 140) which controls user registration and video information distribution (see pg. 4, [0039-0040]), comprising:

registering a user request for a video information distribution service about an area to the user management server in advance (see pg. 1, [0009-0010]; pg. 4, [0045]), where the MDK server 140 includes a subscriber registration module (142);

detecting that the mobile phone exits in an area (see pg. 1, [0009-0010]; pg. 4, [0039-0040, 0045]). Trossen does not specifically disclose having the features detecting traffic of a radio channel connected to the mobile phone; and when the detected traffic is lower than a threshold, distributing video information from the video contents server to the mobile phone based on said push technology. However, the examiner maintains that the features detecting

traffic of a radio channel connected to the mobile phone; and when the detected traffic is lower than a threshold, distributing video information from the video contents server to the mobile phone based on said push technology was well known in the art, as taught by Trossen.

In the same field of endeavor, Trossen discloses the features detecting traffic of a radio channel connected to the mobile phone; and when the detected traffic is lower than a threshold, distributing video information from the video contents server to the mobile phone based on said push technology (see pg. 4, [0033]; pg. 7, 0046-0047]), where the message recipient can define a recipient rule that only permits delivery of specific portions of multimedia messages, such as text portions of multimedia messages that also contain, for example, graphic, audio, and/or video content; and a network rule for message delivery can be defined based on an amount of traffic on the network over which the media content is to be delivered, such as sending the media content when the network traffic is below a threshold (see pg. 7, 0046-0047)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Ayres and Trossen to have the features detecting traffic of a radio channel connected to the mobile phone; and when the detected traffic is lower than a threshold, distributing video information from the video contents server to the mobile phone based on said push technology, in order to allow rules to be defined so as to facilitate fast, efficient and expensive delivery of media content to subscribers, as taught by Trossen (see pg. 2, [0014]; pg. 10, [0068]).

Regarding **claims 12 and 14**, the combination of Ayres and Trossen discloses every limitation claimed, as applied above (see claims 2-3), in addition Ayres further discloses the

method of claims 2-3, further comprising: causing the mobile phone to display saved video information based on an instruction from a user (see pg. 3, [0027]).

***Allowable Subject Matter***

4. Claims 1, 4, and 7-11 are allowed.
5. Claims 5-6, 13, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection necessitated by the new limitations and claims.

In response to applicant's arguments, the Examiner respectfully disagrees as the applied reference(s) provide more than adequate support and to further clarify (see the above claims for relevant citations and comments in this section).

7. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding applicant's arguments, the Examiner requests applicant to review the rejected claims above.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to

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37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

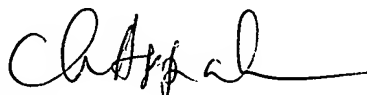
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,JR/

WJD,JR  
01 March 2007

  
CHARLES APPIAH  
PRIMARY EXAMINER